THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No: 2 of 2006

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DATED: 03.01.2006

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Between:

R. Padmavathi

... PETITIONER

AND

The Commissioner of Prohibition & Excise,

Govt., of Andhra Pradesh, Hyderabad,

& another.

... RESPONDENTS

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 2 of 2006

ORDER:-

This writ petition is filed to declare the action of the 2nd respondent in not releasing the Bank guarantee of Rs.1,40,000/- of the petitioner in connection with Crime No.37/94-95 of Yerraguntla Prohibition & Excise Station, Yerraguntla, Kadapa District after the acquittal of the petitioner in CC.No.213 of 2000, dated 30.12.2004 on the file of the Judicial First Class Magistrate, Kamalapuram.

The petitioner submits that he is the owner of the jeep bearing No.AP.04-A 3356. Charge sheet has been laid against the petitioner for the offence under Section 8(b) (ii) (iii) of Andhra Pradesh Prohibition Act (for short 'the Prohibition Act') on 27.03.1995 alleging that the said jeep was found carrying intoxicating products of various brands worth Rs.2,85,000/- and a case in Crime No.20 of 1995 for the offence under Section 34(a) of the Andhra Pradesh Excise Act (for short 'the Excise Act') and
7 and 8 of the A.P. Prohibition ordinance and seized the vehicle and the intoxicated products. The petitioner was A4, the driver of the vehicle A3 and two others A1 and A2 in the said crime.

Admittedly the criminal proceedings have been initiated under the Act and the confiscation proceedings have also been initiated under the Excise Act as well as the Prohibition Act. Whenever any vehicle is seized it is liable for confiscation under Section 46 of the Excise Act and under Section 13 of the Prohibition Act. There is a separate proceedings contemplated under Section 46-A & 46-B of the Excise Act and under Section 13-A & 13-B of the Prohibition Act for passing final orders for confiscation of the seized goods.

Learned counsel for the petitioner submits that as the said C.C.No.213 of 2002 ended in acquittal, the petitioner is entitled for release of the bank guarantee furnished by him for release of the said vehicle. The petitioner furnished a sum of Rs.1,40,000/- as bank guarantee for the interim custody of the said vehicle.

Mere acquittal of the petitioner in the criminal case does not entitle him for release of the bank guarantee unless the departmental proceedings are finalized in

his favour The two actions i.e. the initiation of criminal proceedings and the confiscation of the seized goods and vehicle, are contemplated under the relevant provisions of the Excise Act and the Prohibition Act.

Having regard to the facts and circumstances of the case, the second respondent is directed to finalize the departmental proceedings relating to the confiscation of the seized goods after giving notice to the petitioner as required under law within four weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. No costs.

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V. ESWARAIAH, J

January 3, 2006

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